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No. 82-434

IN THE
Supreme Court of the United States
OCTOBER TERM, 1982

NORTHERN UTILITIES, INC., a Wyoming corporation,
Petitioner,

v.

KERR-McGEE CORPORATION, a Delaware corporation,
Respondent.

v.

NORTHERN UTILITIES, INC., a Wyoming corporation,
Petitioner,

v.

AMOCO PRODUCTION COMPANY, a Delaware corporation and PHILLIPS PETROLEUM COMPANY, a Delaware corporation,
Respondents.

On Writ Of Certiorari To The United States Court Of Appeals For The Tenth Circuit

BRIEF OF KERR-McGEE CORPORATION AND PHILLIPS PETROLEUM COMPANY IN OPPOSITION TO PETITION FOR CERTIORARI

PETER J. NICKLES
Counsel of Record
PERRIN R. LOVE
COVINGTON & BURLING
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044
WILLIAM T. SCHWARTZ
SCHWARTZ, BON, McCRARY & WALKER
506 Consolidated Royalty Building
Casper, Wyoming 82601
RICHARD R. WILFONG
JAMES W. ROBERTS
KERR-McGEE CORPORATION
Kerr-McGee Center
123 Robert S. Kerr Avenue
Oklahoma City, Oklahoma 73125
Attorneys for Respondent Kerr-McGee Corporation

THOMAS M. BLUME
Counsel of Record
FRANK A. ACKERMAN
PHILLIPS PETROLEUM COMPANY
7800 East Dorado Place
Englewood, Colorado 80111
HOUSTON G. WILLIAMS
WILLIAMS, PORTER, DAY & NEVILLE, P.C.
Suite 300, Durbin Center Building
145 South Durbin
Casper, Wyoming 82601
Attorneys for Respondent Phillips Petroleum Company

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BRIEF OF KERR-McGEE CORPORATION AND PHILLIPS PETROLEUM COMPANY IN OPPOSITION TO PETITION FOR CERTIORARI

This Brief in Opposition to the Petition for Certiorari is filed by respondents Kerr-McGee Corporation ("Kerr-McGee") and Phillips Petroleum Company ("Phillips"), who were appellants in the court below.[1]

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[1] Subsidiaries and affiliated companies of Kerr-McGee and Phillips appear in the Appendix.

PERTINENT STATUTES

Section 105 of the Natural Gas Policy Act of 1978, 15 U.S.C. § 3315, and Section 34-21-219 of the Wyoming Statutes (1977) are printed at pp. 2-4 of the Petition.

Section 601(b)(1)(A) of the Natural Gas Policy Act of 1978, 15 U.S.C. § 3431(b)(1)(A) states:

> (b) Charges deemed just and reasonable.—
>
> (1) Sales.—
>
> (A) First sales.—Subject to paragraph (4), for purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any first sale of natural gas shall be deemed to be just and reasonable if—
>
> (i) such amount does not exceed the applicable maximum lawful price established under subchapter I of this chapter; or
>
> (ii) there is no applicable maximum lawful price solely by reason of the elimination of price controls pursuant to part B of subchapter I of this chapter.

COUNTERSTATEMENT OF THE CASE

This is a diversity suit to resolve the validity of a third-party favored nations clause contained in supplemental agreements to three long-term natural gas supply contracts. A third-party favored nations clause is a type of automatic price escalator which requires the purchaser to pay the highest price that any other purchaser pays for natural gas in a designated area. Such clauses are customarily included in long-term natural gas supply contracts. They ensure a distributor of a continuing supply of natural gas for its customers, and ensure a producer that the contract price keeps pace with rising prices and costs over the life of the contract. The clause at issue here authorized progressively higher contract prices as interstate gas prices rose during the 1970's.

In 1957, the corporate predecessor of Amoco Production Co.[2] began supplying natural gas to Northern Utilities, Inc., from the Beaver Creek field in Fremont County, Wyoming. The next year, Kerr-McGee Corp. and Phillips Petroleum Co. became joint participants with Amoco in the Beaver Creek field. Kerr-McGee and Phillips each entered contracts almost identical to the Amoco contract[3] to supply natural gas to Northern Utilities from the Beaver Creek field. All sales under the contracts were entirely intrastate. Each contract extended for twenty years, and included a two-party favored nations clause which entitled each producer to receive the highest price that Northern Utilities paid any other producer of gas in Wyoming. Each contract also gave Northern Utilities a preferential right to negotiate in the future to purchase excess gas that might become available from the Beaver Creek field.

In April, 1970, Amoco notified Northern Utilities that excess gas was available for sale. During the ensuing months Amoco and Nothern negotiated a supplemental agreement to the original 1957 contract, which they signed on October 1, 1970. The supplemental agreement extended the length of the original contract 12 years, through 1990, and ensured Northern Utilities of a continuing supply of gas for its customers at a time when natural gas reserves were dwindling and competition for existing reserves was increasing. In return, Northern Utilities and Amoco added Article 6(b), a third-party favored nations clause, to the pricing provision of the original contract. Article 6(b) entitled Amoco to receive

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[2] Hereafter referred to as Amoco without distinction.

[3] The differences are not relevant to this Petition.

on sales of gas to Northern Utilities the highest price which any producer in Wyoming (with the exception of two counties) received on sales of gas, plus 3¢ McF.

About a year after the supplemental agreement between Amoco and Northern Utilities took effect, Northern Utilities proposed that Kerr-McGee and Phillips enter similar agreements to supply natural gas through 1990. By letter of Sept. 9, 1971, Northern Utilities forwarded to Kerr-McGee and Phillips copies of proposed agreements which included a third-party favored nations clause identical to the clause in the Amoco agreement. By letter of Dec. 3, 1971, Northern Utilities urged Kerr-McGee and Phillips to complete the agreements so that Northern could close its files before the end of the year. Kerr-McGee and Phillips reviewed the documents over the ensuing months, but did not agree to Northern's terms. By letter of Sept. 11, 1972, Northern proposed modifications not relevant to this litigation; the agreements continued to include the third-party favored nations clause. Northern urged Kerr-McGee and Phillips to accept the terms and return executed copies. Eventually, on February 23, 1973, Kerr-McGee agreed to Nothern's terms, and entered a supplemental agreement that included a third-party favored nations clause. Two months later, on May 4, 1973, Phillips agreed to Northern's terms and entered a similar supplemental agreement. The third-party favored nations clause was designated Article 6(b) in each agreement.

Beginning in 1976, the Federal Power Commission[4] authorized price increases for interstate sales of natural gas. As other producers in Wyoming increased their

[4] Now the Federal Energy Regulatory Commission.

prices to authorized levels, Article 6(b) was triggered. Amoco, Kerr-McGee, and Phillips became entitled to receive from Northern Utilities a price equal to the highest price other Wyoming producers received for interstate sales of natural gas, plus three cents per McF. Northern requested and received approval from the Wyoming Public Service Commission for a rate increase to meet the contract price.

Amoco agreed to phase-in the contract price through July 1, 1978, at which time Article 6(b) would become fully effective. Kerr-McGee and Phillips refused to phase-in the price to which they were entitled under 6(b), and Kerr-McGee brought suit to recover the difference between the phase-in price and the contract price. Northern counterclaimed and brought suit against Amoco and Phillips; the actions were consolidated. Subsequently, the Natural Gas Policy Act of 1978 (NGPA) placed a ceiling on the price of gas sold intrastate equal to the maximum lawful price established under the Act for new natural gas sold interstate. As other producers raised prices to maximum price levels, Article 6(b) in effect entitled the producers to receive the highest price which any producer in Wyoming received on interstate sales of gas, without the three-cent surcharge.

The trial court held the third-party favored nations clause unconscionable under Wyoming law, Wyo. Stat. § 34-21-219 (1977),[5] because the clause imposed "exhorbitant" prices on rate payers. Pet. App. 38a-39a. The trial court also held that the clause violated public policy, but did not specify whether state or federal public policy

[5] The Wyoming unconscionability statute adopts U.C.C. § 2-302 without change.

was violated. *Id.* The court struck the clause and enforced the pricing provisions of the original contracts. Pet. App. 42a-43a. By supplemental judgment, the court awarded Northern Utilities recovery for past payments in excess of the court imposed price: $59,603,631.02 plus interest against Amoco; $3,549,202.07 plus interest against Kerr-McGee; and $4,605,734.34 plus interest against Phillips Petroleum. Pet. App. 44a-45a. Because the court imposed the original contract price on the remaining years of the contract, the monetary effect of the ruling would have been even greater for the future term of the contract.

The Tenth Circuit Court of Appeals reversed unanimously. The Court of Appeals held, first, that Article 6(b) comports with federal public policy because the Natural Gas Policy Act (NGPA) authorizes producers to escalate the price of intrastate gas to statutory price ceilings through indefinite price escalators. Pet. App. 6a-9a. The Court also held that Article 6(b) comports with Wyoming public policy, observing that the Wyoming Supreme Court had enforced a favored nations clause despite a challenge on public policy grounds in *Amoco Production Co.* v. *Stauffer Chemical Co.*, 612 P.2d 463 (Wyo. 1980). Pet. App. 9a-11a. Finally, the Court held that Article 6(b) was not unconscionable under Wyoming law, stating among other things, that no evidence was introduced that Northern Utilities was unable to negotiate freely, or was compelled to accept the terms of the supplemental agreements. The Court noted that Article 6(b) was a *quid pro quo* for the twelve-year extension of the original contracts, which enabled Northern Utilities to guarantee a continuing supply of natural gas to its customers. Pet. App. 12a-16a.

ARGUMENT

1. No Constitutional Or Important Federal Questions Are Presented.

The Petition presents no considerations that warrant review by this Court on *certiorari*. The Tenth Circuit Court of Appeals decision addresses no constitutional questions and conflicts with no decisions of any other court, state or federal. The decision also presents no important federal question. The unconscionability and Wyoming public policy questions are governed entirely by state law. Even the federal public policy question turns on state law in this case, because the Petition alleges that the sufficiency of an indefinite price escalator clause under the NGPA "must be determined under state contract law." Pet. 31. And the Court of Appeals' analysis of federal public policy is fully in accord with the Fifth Circuit, *see Pennzoil Co.* v. *FERC*, 645 F.2d 360 (5th Cir. 1981), *cert. denied*, 102 S. Ct. 1000 (1982), as well as other decisions within the Tenth Circuit, *see Superior Oil Co.* v. *Western Slope Gas Co.*, 604 F.2d 1281 (10th Cir. 1979); *Amoco Production Co.* v. *Kansas Power & Light Co.*, 505 F. Supp. 628 (D. Kan. 1980).

Further, the unconscionability question, and therefore the federal public policy question, is factual. The Petition characterizes the unconscionability question as "whether the Court of Appeals erred in neglecting to consider the following six facts." Pet. i. Immediately prior to its conclusion, the Petition again states that "[i]t is the facts of the case at bar which the Court of Appeals has overlooked and did not consider. Facts which disclose an unconscionable clause contrary to the public interest." Pet. 32. Stripped to essentials, the Petition seeks an evidentiary review of the record simply because the Court of Appeals ruled against Northern Utilities on the merits. This court

ordinarily does not grant certiorari to review evidence. *See, e.g., United States* v. *Johnston*, 268 U.S. 220, 227 (1925).

2. The Court Of Appeals Decided Each Issue Correctly.

a. ***Unconscionability***

The Court of Appeals held that the trial court misapplied the legal standard of unconscionability under Wyoming law, because the trial court based its conclusion solely on the rise of the contract price beginning more than three years after contracts were made, not on circumstances at the time of contracting.[6] The Court of Appeals did not, as the Petition alleges at 11, view the record as a "simple case of rising market price," without considering other circumstances. In fact, the Court of Appeals judged unconscionability precisely by the factors enumerated in the leading Wyoming decision on unconscionability, *In re Estate of Frederick*, 599 P.2d 550 (Wyo. 1979), a decision which the district court "inexplicably" failed to cite or consider. Pet. App. 12a. Applying the *Frederick* factors,[7] the Court of Appeals concluded that "experienced negotiators for both parties entered into an agreement after several months of give-

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[6] The increases authorized under Article 6(b) began three years after Kerr-McGee and Phillips entered the supplemental agreements; they began six years after Amoco negotiated its supplemental agreement.

[7] The factors enumerated in In re Estate of Frederick include whether the party alleging unconscionability (1) was presented with a meaningful choice; (2) was compelled to accept the contract terms; (3) had an opportunity for meaningful negotiations; or (4) suffered such a gross inequality of bargaining power that negotiations were not possible. 599 P.2d at 556.

and-take. Northern was not compelled to enter into the contract and clearly believed the contract terms were to its advantage at the time of execution and for several years thereafter." Pet. App. 16a. Northern Utilities fully briefed and argued before the Court of Appeals the circumstances it believes were ignored. The Court of Appeals concluded after a review of the record that no evidence was introduced that constituted unconscionability as defined in *In re Estate of Frederick*. Nothing in the Petition alters this conclusion.[8]

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[8] The circumstances on which the Petition primarily relies boil down to the fact that Article 6(b) contains no adjustments for pressure base or Btu content. The Petition alleges that the absence of such adjustments makes Article 6(b) "unique," Pet. 12, and oppressive and one-sided, Pet. 25-26. The Petition also alleges that Amoco "misled" Northern Utilities to believe that Article 6(b) contained adjustments for pressure base and Btu content by threatening to sell Beaver Creek gas to an interstate pipeline. Pet. 16-17. The Petition fails to explain why uniqueness is relevant to unconscionability; in any event, Article 6(b) is no different in effect than the third-party favored nations clause enforced by the Wyoming Supreme Court in Amoco Production Co. v. Stauffer Chemical Co., 612 P.2d 463 (Wyo. 1980). The allegation that Amoco "misled" Northern Utilities evidences nothing more than vigorous bargaining by Amoco. No terms were hidden, no misrepresentations made. Northern's representatives were fully capable of concluding from the language alone that Article 6(b) did not include any adjustments. Further, the absence of adjustments does not make the contract price oppressive or one-sided. In enforcing the third-party favored nations clause in *Stauffer Chemical, supra*, the Wyoming Supreme Court refused to limit the clause to the highest price paid for gas *of the same vintage*. The Court stated that "the contract price is not restricted to that prescribed to be paid for the gas sold under contract if it were sold in interstate commerce pursuant to [FPC] order," *id.* at 466, and recognized that the purpose of the clause was to provide for the "*highest* price being paid for the commodity by any other purchaser." *Id.* at 468 (emphasis in original). Similarly, the Tenth Circuit has recognized that the price

The conclusion of the Court of Appeals is even stronger with regard to Kerr-McGee and Phillips Petroleum. No evidence whatever of unconscionable conduct in the formation of the contract was introduced at trial against Kerr-McGee or Phillips.[9] Kerr-McGee and Phillips did not bargain over the third-party favored nations clause, but accepted the terms *as proposed by Northern Utilities*.

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of gas is not tied to the cost of production. *See* Superior Oil Co. v. Western Slope Gas Co., 604 F.2d 1281, 1291 n.15 (10th Cir. 1979) (The "value of gas is [not] directly related to the cost of production. Supply and demand are the conventional determinants. . . . The actual value of a product is determined by what people will pay for it, not what it costs to produce.").

The Petition also asserts that two other circumstances evidence unconscionability—Amoco's attempts to recover from Northern Utilities production taxes paid, Pet. 15, and the resale of gas from Northern Utilities back to Amoco, Pet. 20. Again, however, Northern Utilities fails to demonstrate how these circumstances deprived it of the ability or opportunity to negotiate freely. The original 1957 contract required Northern Utilities to reimburse Amoco for a percentage of production taxes paid. Several years after the supplemental agreement was signed, Amoco asserted a right to recover from Northern Utilities ad valorem taxes reimbursed to other producers by other buyers. Amoco asserted that such taxes should be considered part of the contract price under Article 6(b). Amoco's attempt to recover the taxes does not represent overreaching or unfair surprise, but a genuine legal dispute as to whether Article 6(b) governed the tax reimbursement provision of the original 1957 contract. Finally, Northern's agreement to sell gas back to Amoco was entirely separate from the supplemental agreement. The resale agreement did not induce Northern Utilities to enter the supplemental agreement against its will, and Amoco hardly could have deceived Northern Utilities about its existence.

[9] The evidence of bargaining conduct introduced against Amoco was expressly excluded from evidence introduced against Kerr-McGee and Phillips. (Record, Vol. XIII, p. 263.)

Northern Utilities initiated discussion with both Kerr-McGee and Phillips. Northern Utilities provided all the terms and repeatedly urged Kerr-McGee and Phillips to enter the supplemental agreements. After Kerr-McGee agreed to Northern's terms, Northern continued to urge Phillips to agree to Northern's terms until Phillips did so. A party to a contract who does not negotiate cannot oppress, mislead, or unfairly surprise the other party.

b. ***Wyoming Public Policy***

The Court of Appeals also concluded correctly that the third-party favored nations clause is fully consistent with Wyoming public policy. The Court followed the clear expression of Wyoming public policy stated by the Wyoming Supreme Court in *Amoco Production Co.* v. *Stauffer Chemical Co.*, 612 P.2d 463 (Wyo. 1980), which enforced a third-party favored nations clause very similar in effect to Article 6(b).[10] The Court of Appeals also noted that the Wyoming legislature had imposed no restrictions on the operation of indefinite price escalators. Pet. App. 10a-11a. The Court of Appeals would have raised serious *Erie* concerns if it had ignored the specific language of the Wyoming Supreme Court in the absence of any ex-

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[10] The Wyoming Supreme Court stated in *Stauffer Chemical:*

> *Favored nations clauses are a common feature of gas purchase and sale contracts.* The nature of the product and its questionable availability engenders reluctance on the part of producers to enter into long term contracts at the price prevailing at the time of the contract. Yet purchasers require long term commitments to insure an adequate supply of gas. . . . A third-party favored nations clause requires the purchaser to match any higher price contracted to be paid by any other buyer in the same field or area. *Favored nations clauses are recognized in the courts.*

612 P.2d at 468 (emphasis added) (citations and footnotes omitted).

pression to the contrary. The trial court cursorily distinguished the *Stauffer Chemical* decision,[11] but offered no other source of Wyoming public policy. Pet. App. 42a. The Petition offers no other source of Wyoming public policy except the participation of the state Attorney General in this litigation *amicus curiae*. Pet. 28. The *amicus* participation of the Attorney General, of course, cannot constitute the public policy of a state. Public policy is determined from the state's constitution and statutes, and from judicial decisions and administrative practice. *See Taylor* v. *State*, 612 P.2d 851, 865 (Wyo. 1980) (Rooney, J., concurring).

The Petition attempts to evoke public policy concerns by asserting that Article 6(b) significantly raised the price paid by Northern's customers. Aside from the legal inadequacy of the assertion, the effect of Article 6(b) on Northern's customers has been greatly exaggerated. The Petition cites the trial court's finding that Article 6(b) caused monthly gas bills to increase from $30 to $250 between 1975 and 1980. Pet. at 29, quoting Finding of Fact ¶ 47. The trial court inexplicably based this finding on the testimony of a Northern Utilities executive in

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[11] The trial court distinguished *Stauffer Chemical* on the ground that *Stauffer Chemical* did not specifically address the public policy question. Pet. App. 42a. The Petition forwards the same argument. Pet. 30. As the Court of Appeals noted, however, the public policy question was fully briefed and argued before the Wyoming Supreme Court in *Stauffer Chemical*. Pet. App. 10a. The Wyoming Supreme Court would not have enforced the third-party favored nations clause if it had concluded that the clause conflicted with Wyoming public policy. But the Court enforced the clause in all respects, stating that it would not follow a course that amounted to "rewriting the contract." 612 P.2d at 467.

response to a *hypothetical* question. The witness was asked to estimate a monthly gas bill in 1980 assuming the bill was $30 in 1975; the witness testified that *if* a consumer's monthly bill was $30 when the wellhead price was 28¢ per McF, the 1980 monthly bill would increase to between $285 and $300. (Record, Vol. VII, p. 339-40.) Testimony in the record, however, established that the monthly gas bill of a medium-size house at the time of trial in 1980 was *in fact* only $46.50.[12] Figures compiled by the American Chamber of Commerce confirm the evidence in the record. Consumers in Casper and Laramie, Wyoming, (both in Northern Utilities' service area) paid well below the national average for natural gas in the fourth quarter of 1980, when Northern was charging rates sufficient to pass through Article 6(b) gas prices. Consumers in Casper paid 78.8% of the national average, consumers in Laramie paid only 65.5%.[13]

The increase in consumer rates was not caused by the invidious motives of Kerr-McGee and Phillips, but by the same factors that caused the price of natural gas and other energy sources to rise dramatically during the 1970's—threats of natural gas shortages, increased production costs, the Arab Oil embargo and formation of OPEC, and the development of a national policy to pro-

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[12] The figure was derived from the actual price Northern Utilities charged at the time of trial, $3.12 per McF, and the witness's estimate that a medium-size house would use 180 McF per year (180 x $3.12 ÷ 12 = $46.50). (Record, Vol. VIII, pp. 475-76, 506.)

[13] *See* American Chamber of Commerce Researchers Ass'n., *Fourth Quarter 1980, Inter-City Cost of Living Indicators* (1980).

mote energy conservation.[14] Reconsideration of the Court of Appeals decision would not relieve Northern's customers of a special burden, but would grant them a special benefit which other consumers do not enjoy.

c. *Federal Public Policy*

Finally, the Court of Appeals correctly held that Article 6(b) is fully consistent with federal public policy as expressed in the NGPA. Section 3315 of the Act specifically permits the price of intrastate sales of natural gas to rise to ceiling levels according to the terms of indefinite price escalators. Section 3431(b)(1)(A) declares prices established by the statutory ceilings to be "just and reasonable." Administrative regulation and judicial decision confirm this policy. *See* 18 C.F.R. § 270.205(b)(1);[15] *Pennzoil Co.* v. *FERC*, 645 F.2d 360 (5th Cir. 1981), *cert. denied* 102 S. Ct. 1000 (1982).

The Fifth Circuit noted in *Pennzoil* that Congress was specifically aware of the use of indefinite price escalators in intrastate supply contracts when it enacted the NGPA. The Court concluded that the NGPA placed only four

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[14] *See, e.g.*, Opinion No. 770 at 10 (FPC, Sept. 27, 1976) (authorizing approximately 100% increases for the highest price of interstate gas because of "natural gas shortages," "shortages of other energy supplies" and substantial cost increases that "could not have been predicted").

[15] Section 270.205(b)(1) states (emphasis added):

> (b) *Existing intrastate contracts.* In the case of an existing contract (other than a contract to which paragraph (a) applies):
>
> (1) Except as provided in paragraph (b)(2) of this section, *any contractual provision for a change in price may operate according to the terms of such provision* except that such provision is not operative to authorize a seller to charge and collect an amount in excess of the highest applicable NGPA rate.

limitations[16] on the operation of indefinite price escalators in intrastate contracts, "thereby allowing escalator clauses to otherwise operate *according to their terms*." 645 F.2d at 378 (emphasis added). The Petition does not allege that the prices Kerr-McGee and Phillips receive under Article 6(b) exceed any of the limitations imposed by the NGPA, but only that Article 6(b) is somehow insufficient under the NGPA because it is unconscionable under Wyoming law. Pet. 31. Because the prices received do not exceed NGPA limitations, Article 6(b) comports with federal public policy.

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[16] The four limitations are: (1) prices established by indefinite price escalators cannot exceed the maximum lawful prices established in § 3315(b)(1) and (2); (2) prices established by indefinite price escalators which equal the maximum lawful price are subject to continuing regulation after Dec. 31, 1984 (§ 3315(b)(3)(A)); (3) an indefinite price escalator cannot escalate the price to "high cost" natural gas prices unless the gas qualifies as high cost gas (§ 3373(a)); and (4) an indefinite price escalator cannot escalate the price to emergency sale or emergency allocation prices (§ 3373(b)). *See* 645 F.2d at 376-78.

CONCLUSION

For the foregoing reasons, the Petition should be denied.

Respectfully submitted,

PETER J. NICKLES
Counsel of Record
PERRIN R. LOVE
COVINGTON & BURLING
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044

WILLIAM T. SCHWARTZ
SCHWARTZ, BON, MCCRARY & WALKER
505 Consolidated Royalty Building
Casper, Wyoming 82601

RICHARD R. WILFONG
JAMES W. ROBERTS
KERR-MCGEE CORPORATION
Kerr-McGee Center
123 Robert S. Kerr Avenue
Oklahoma City, Oklahoma 73125

Attorneys for Respondent Kerr-McGee Corporation

THOMAS M. BLUME
Counsel of Record
FRANK A. ACKERMAN
PHILLIPS PETROLEUM COMPANY
7800 East Dorado Place
Englewood, Colorado 80111

HOUSTON G. WILLIAMS
WILLIAMS, PORTER, DAY & NEVILLE, P.C.
Suite 300, Durbin Center Building
145 South Durbin
Casper, Wyoming 82601

Attorneys for Respondent Phillips Petroleum Company

APPENDIX TO THE BRIEF IN OPPOSITION

Phillips Petroleum Company Subsidiaries And Affiliates Not Wholly Owned As Of October 5, 1982

Acurex Corporation
Acurex Solar Corporation*
Aero Oil Company
Alyeska Pipeline Service Company*
Arctic LNG Transportation Company*
Bruin Carbon Dioxide Sales Corporation*
Calatrava, Empress Para la Industria Petroquimica, S.A.*
Canada Western Cordage Company Limited
Cahyon Reef Carriers, Inc.*
Chisholm Pipeline Company*
Cochin Refineries Limited
Colonial Pipeline Company*
Compagnie Francaise du Carbon Black, S.A.*
Dixie Pipeline Company*
Everglades Pipe Line Company*
Explorer Pipeline Company*
Insurance and Reinsurance Brokers (Bermuda) Limited
Iranian Marine International Oil Company*
Kaw Pipe Line Company*
Kenai LNG Corporation*
Negronex, S.A.
Nordisk Philblack AB*
Norland Gmbh Fur Grundbesitz Und Industrieabulagen*
Norpipe a.s.*
Norpipe Petroleum UK Limited*
Norsea Gas A/S*
Norsea Gas Gmbh*
Norsea Pipeline Limited
Papago Chemicals, Inc.*
Petrochim
Phillips Carbon Black Company (Proprietary) Limited*

Phillips Carbon Black Italiana S.p.A.*
Phillips Carbon Black Limited
Phillips Gas Supply Corporation*
Phillips-Imperial Petroleum Limited*
Phillips Pacific Chemical Company*
Phillips Petroleum Singapore Chemical (Private) Limited*
Philmac Oils Limited*
Plasticos Vanguardia, S.A.*
Polar LNG Shipping Corporation*
Polyolefine*
Quimica Venoco C.A.*
Renolit-Fertighaus Gmbh*
The Salk Institute Biotechnology/Industrial Associates, Inc.*
Seadock, Inc.*
Seaway Pipeline, Inc.*
Sevalco (Holdings) Limited
Spodoco Limited*
Texas Offshore Port, Inc.*
Transatlantic Reinsurance Company
Trenwick Limited
Venezoil, C.A.
Western Desert Operating Petroleum Company
White River Shale Oil Corporation

* Indicates no public stock ownership.

Kerr-McGee Corporation Subsidiaries And Affiliates Not Wholly Owned As Of October 5, 1982

Kerr-McGee of Canada Northwest, Ltd.*
Kerr-McGee Oil (U.K.) Limited*
Marine Resources Insurance, Limited*
San-Ann Premium Center, Inc.
San-Ann Service, Inc.
Sunningdale Oils (ABU DHABI) Limited*
Sunningdale Oils (Ireland) Limited*
Transocean Drilling Company Limited
Transocean Drilling (Curacao) N.V.
Transshore Drilling Co. Limited
Transshore Drilling (Curacao) N.V.
White Shoal Pipeline Corporation
Basic Management, Inc.
Bikita Minerals (Private) Limited
Crescent Petroleum Company
Downtown Airpark, Inc.
Little Medicine Development Co.

* Indicates no public stock ownership.